

AMENDED IN SENATE AUGUST 13, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

No. 2371

---

### Introduced by Assembly Member Mullin

February 21, 2014

---

An act to amend ~~Sections 41802 and 41821 of, to add Article 2.5 (commencing with Section 41513) to Chapter 3.5 of Part 2 of Division 30 of, and to repeal Section 41514 of, the Public Resources Code, relating to solid waste. Section 117748 of the Health and Safety Code, relating to pharmaceutical waste, and declaring the urgency thereof, to take effect immediately.~~

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2371, as amended, Mullin. ~~Solid waste: household hazardous waste. Pharmaceutical waste management: exemption: over-the-counter drugs and nutritional supplements.~~

(1) Existing law, the Medical Waste Management Act, administered by the State Department of Public Health, regulates the management, handling, and disposal of medical waste, as defined, including pharmaceutical waste. Existing law, for purposes of the act, defines “pharmaceutical waste” as a prescription or over-the counter human or veterinary drug, as specified, that is waste, as defined, but excludes from that definition certain pharmaceuticals being sent out of state to a reverse distributor, or being sent by a reverse distributor offsite for treatment and disposal, as prescribed.

This bill would additionally exclude from the definition of “pharmaceutical waste,” for purposes of regulation under the act, any

*over-the-counter human or veterinary drug or dietary supplement that is, among other things, characterized and managed as a hazardous or solid waste and, with respect to an over-the-counter human or veterinary drug, is not disposed of on land within the state.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires, among other things, each city and each county to prepare a household hazardous waste element containing specified components and to submit that element to the department for approval. Existing law requires the department to approve the element if the local agency demonstrates that it will comply with specified requirements. A city or county is required to submit an annual report to the department summarizing its progress in reducing solid waste, including an update of the jurisdiction's household hazardous waste element.~~

~~This bill would require each jurisdiction, subject to those requirements, no later than January 1, 2016, to review its household hazardous waste element and program to determine its effectiveness in the collection, recycling, treatment, and disposal of household hazardous waste, as prescribed. The bill would further require the department, on or before January 1, 2017, to submit a report to the Legislature that analyzes the effectiveness of the state's household hazardous waste management system, including specified information. The bill would require, as a condition of approval of a household hazardous waste element, that the local agency demonstrate that it will give priority to methods that make the recycling and disposal of household hazardous waste more convenient, as defined, for the public. The bill would make changes relating to the annual reporting of a jurisdiction's methods and programs for the recycling and disposing of household hazardous waste. By imposing new duties on cities and counties with regard to the review of its household waste reduction and recycling element, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~<sup>no</sup>.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 117748 of the Health and Safety Code is*  
2 *amended to read:*

3     117748. (a) “Pharmaceutical waste” means any pharmaceutical,  
4 as defined in Section 117747, that is a waste, as defined in Section  
5 25124.

6     (b) For purposes of this part, “pharmaceutical waste” does not  
7 include any pharmaceutical that meets ~~either~~ *any* of the following  
8 criteria:

9     (1) The pharmaceutical is being sent out of the State of  
10 California to a reverse distributor, as defined in Section 4040.5 of  
11 the Business and Professions Code, that is licensed as a wholesaler  
12 of dangerous drugs by the California State Board of Pharmacy  
13 pursuant to Section 4161 of the Business and Professions Code.

14     (2) The pharmaceutical is being sent by a reverse distributor,  
15 as defined in Section 4040.5 of the Business and Professions Code,  
16 offsite for treatment and disposal in accordance with applicable  
17 laws, or to a reverse distributor that is licensed as a wholesaler of  
18 dangerous drugs by the California State Board of Pharmacy  
19 pursuant to Section 4160 of the Business and Professions Code  
20 and as a permitted transfer station if the reverse distributor is  
21 located within the State of California.

22     (3) *The pharmaceutical is an over-the-counter human or*  
23 *veterinary drug or dietary supplement that meets the following*  
24 *requirements:*

25     (A) *Is offered for sale without a prescription.*

26     (B) *Is labeled with information entitled “Drug Facts” or*  
27 *“Supplement Facts,” in accordance with the requirements of the*  
28 *Federal Food, Drug, and Cosmetic Act, as amended, (21 U.S.C.A.*  
29 *Sec. 321 et seq.).*

30     (C) *Is characterized and managed as either a hazardous waste*  
31 *pursuant to Chapter 6.5 (commencing with Section 25100) of*  
32 *Division 20, or a solid waste pursuant to Division 30 (commencing*  
33 *with Section 40000) of the Public Resources Code.*

34     (D) *With respect to an over-the-counter human or veterinary*  
35 *drug, is not disposed of on land within the state.*

36     *SEC. 2. This act is an urgency statute necessary for the*  
37 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*  
2 *immediate effect. The facts constituting the necessity are:*

3 *In order to make statutory changes needed to exempt*  
4 *over-the-counter-human and veterinary drugs and dietary*  
5 *supplements from laws regulating the management, handling, and*  
6 *disposal of medical waste, as soon as possible, it is necessary that*  
7 *this act take effect immediately.*

8 SECTION 1. ~~Article 2.5 (commencing with Section 41513) is~~  
9 ~~added to Chapter 3.5 of Part 2 of Division 30 of the Public~~  
10 ~~Resources Code, to read:~~

11  
12 Article 2.5. Household Hazardous Waste Reporting  
13

14 41513. ~~(a) Each jurisdiction subject to the requirements of~~  
15 ~~Section 41500 or 41510 shall, no later than January 1, 2016, review~~  
16 ~~its household waste element and program to determine its~~  
17 ~~effectiveness in the collection, recycling, treatment, and disposal~~  
18 ~~of household hazardous waste. The jurisdiction shall consider~~  
19 ~~information it submits annually to the department pursuant to~~  
20 ~~Article 6.3 (commencing with Section 18750) of Chapter 9 of~~  
21 ~~Division 7 of Title 14 of the California Code of Regulations, and~~  
22 ~~any other information it deems appropriate.~~

23 ~~(b) The jurisdiction's review shall do all of the following:~~

24 ~~(1) Analyze the extent to which its household hazardous waste~~  
25 ~~program is convenient to the public.~~

26 ~~(2) Identify barriers to the convenient recycling and disposal of~~  
27 ~~household hazardous waste.~~

28 ~~(3) Identify feasible methods to overcome those barriers and~~  
29 ~~make it more convenient, as described in subdivision (d), for the~~  
30 ~~public to recycle and dispose of household hazardous waste in a~~  
31 ~~safe and legal manner.~~

32 ~~(c) Each jurisdiction shall include the findings from its review~~  
33 ~~in the first report it submits to the department on or after January~~  
34 ~~1, 2016, pursuant to Section 41821.~~

35 ~~(d) For purposes of this article, "more convenient" means a~~  
36 ~~measure to improve the opportunity for residential customers to~~  
37 ~~properly recycle or dispose of household hazardous waste,~~  
38 ~~including, but not limited to, increased availability or ease of access~~  
39 ~~to household hazardous waste collection centers or collection~~  
40 ~~events, the availability of door-to-door or curbside collection~~

1 services, and other measures that will demonstrably increase the  
2 amount of household hazardous waste properly managed, as  
3 determined by jurisdictions or the department, pursuant to this  
4 article.

5 41514. (a) On or before January 1, 2017, the department shall  
6 submit a report to the Legislature, in the matter provided in Section  
7 9795 of the Government Code, that analyzes the effectiveness of  
8 the state's household hazardous waste management system,  
9 including, but not limited to, rates of collection and recycling of  
10 household hazardous waste, and identifies all of the following:

11 (1) Barriers to increased recycling of household hazardous  
12 waste.

13 (2) Disincentives to the legal disposal of household hazardous  
14 waste.

15 (3) The extent to which methods and programs have been  
16 implemented in the state to reduce disincentives to the legal  
17 disposal of household hazardous waste.

18 (4) The role that convenience for the public plays in increasing  
19 rates of collection and disposal of household hazardous waste in  
20 a safe and legal manner.

21 (5) Recommendations to increase the safe, legal, and convenient  
22 collection and disposal of household hazardous waste.

23 (b) This section is repealed on January 1, 2019 pursuant to  
24 Section 10231.5 of the Government Code.

25 SEC. 2. Section 41802 of the Public Resources Code is  
26 amended to read:

27 41802. (a) Within 120 days from the date of receipt of a  
28 household hazardous waste element, the department shall approve  
29 or disapprove the element.

30 (b) The department shall not disapprove a household hazardous  
31 waste element if the local agency preparing the element  
32 demonstrates to the department that, in implementing the household  
33 hazardous waste element, the local agency will comply with all of  
34 the following requirements:

35 (1) The local agency will use feasible methods to properly  
36 reduce, collect, recycle, treat, and dispose of household hazardous  
37 waste generated within its jurisdiction.

38 (2) The local agency will give priority to those methods that  
39 make recycling and disposal of household hazardous waste more  
40 convenient for the public.

~~(3) The local agency will devote reasonable expenditures to the safe reduction, collection, recycling, treatment, and disposal of household hazardous waste, relative to the other expenditures required by this division, and relative to the expenditures for household hazardous waste programs that were awarded grants of funds pursuant to Section 46401 as it read on January 1, 1993.~~

~~(4) The local agency will make all reasonable efforts to inform the public of, and to encourage public participation in, the household hazardous waste program.~~

~~(5) Regardless of the number of household hazardous waste collection events held each year by a local agency, or the actual number of households served, the collection program is available for use by all households within the jurisdiction of the local agency, and provides a safe alternative for all residents within the jurisdiction of the local agency to properly and safely dispose of household hazardous waste.~~

~~(e) (1) In determining whether a local agency meets the conditions for approval of a household hazardous waste element set forth in subdivision (b), the department shall consider the geographic size and population of the city or county and the quantity of household hazardous waste generated within the jurisdiction of the city or county.~~

~~(2) The department may provide an exemption from the requirements of subdivision (b) if a city, county, or a regional agency demonstrates, and the department concurs, that compliance with those requirements is not feasible due to the small geographic size of the city, county, or regional agency and the small quantity of solid waste generated within the city, county, or regional agency. The department may establish alternative, but less comprehensive, requirements for those cities, counties, or regional agencies to ensure compliance with this division.~~

~~SEC. 3.—Section 41821 of the Public Resources Code is amended to read:~~

~~41821. (a) (1) Each year following the department's approval of a jurisdiction's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the jurisdiction shall submit a report to the department summarizing its progress in reducing solid waste as required by Section 41780, in accordance with the schedule set forth in this subdivision.~~

1     ~~(2) The annual report shall be due on or before August 1 of the~~  
2     ~~year following department approval of the source reduction and~~  
3     ~~recycling element, the household hazardous waste element, and~~  
4     ~~the nondisposal facility element, and on or before August 1 in each~~  
5     ~~subsequent year. The information in this report shall encompass~~  
6     ~~the previous calendar year, January 1 to December 31, inclusive.~~

7     ~~(b) Each jurisdiction's annual report to the department shall, at~~  
8     ~~a minimum, include the following:~~

9     ~~(1) Calculations of annual disposal reduction.~~

10    ~~(2) A summary of progress made in implementing the source~~  
11    ~~reduction and recycling element and the household hazardous~~  
12    ~~waste element.~~

13    ~~(3) An update of the jurisdiction's source reduction and~~  
14    ~~recycling element to include any new or expanded programs the~~  
15    ~~jurisdiction has implemented or plans to implement.~~

16    ~~(4) An update on the jurisdiction's household hazardous waste~~  
17    ~~element, including, but not limited to, findings included in the~~  
18    ~~review produced pursuant to Section 41513 and new methods or~~  
19    ~~programs the jurisdiction has implemented to increase the~~  
20    ~~convenience of the public to recycle and dispose of household~~  
21    ~~hazardous waste in a safe and legal manner.~~

22    ~~(5) An update of the jurisdiction's nondisposal facility element~~  
23    ~~to reflect any new or expanded nondisposal facilities the~~  
24    ~~jurisdiction is using or planning to use.~~

25    ~~(6) A summary of progress made in diversion of construction~~  
26    ~~and demolition of waste material, including information on~~  
27    ~~programs and ordinances implemented by the local government~~  
28    ~~and quantitative data, where available.~~

29    ~~(7) Other information relevant to compliance with Section~~  
30    ~~41780.~~

31    ~~(c) A jurisdiction may also include, in the report required by~~  
32    ~~this section, all of the following:~~

33    ~~(1) Information on disposal reported pursuant to Section 41821.5~~  
34    ~~that the jurisdiction believes may be relevant to the department's~~  
35    ~~determination of the jurisdiction's per capita disposal rate.~~

36    ~~(2) Disposal characterization studies or other completed studies~~  
37    ~~that show the effectiveness of the programs being implemented.~~

38    ~~(3) Factors that the jurisdiction believes would affect the~~  
39    ~~accuracy of, or mitigate the amount of, solid waste disposed by~~

1 the jurisdiction, including, but not limited to, either of the  
2 following:

3 (A) Whether the jurisdiction hosts a solid waste facility or  
4 regional diversion facility.

5 (B) The effects of self-hauled waste and construction and  
6 demolition waste.

7 (4) The extent to which the jurisdiction previously relied on  
8 biomass diversion credit and the extent to which it may be impacted  
9 by the lack of the credit.

10 (5) Information regarding the programs the jurisdiction is  
11 undertaking to address specific disposal challenges, and why it is  
12 not feasible to implement programs to respond to other factors that  
13 affect the amount of waste that is disposed.

14 (6) Other information that describes the good faith efforts of  
15 the jurisdiction to comply with Section 41780.

16 (d) The department shall use, but is not limited to the use of,  
17 the annual report in the determination of whether the jurisdiction's  
18 source reduction and recycling element needs to be revised or  
19 updated.

20 (e) (1) The department shall adopt procedures for requiring  
21 additional information in a jurisdiction's annual report. The  
22 procedures shall require the department to notify a jurisdiction of  
23 any additional required information no later than 120 days after  
24 the department receives the report from the jurisdiction.

25 (2) Paragraph (1) does not prohibit the department from making  
26 additional requests for information in a timely manner. A  
27 jurisdiction receiving a request for information shall respond in a  
28 timely manner.

29 (3) If the schedule for the submission of an annual report by a  
30 jurisdiction does not correspond with the scheduled review by the  
31 department specified in subdivision (a) of Section 41825, the  
32 department shall utilize the information contained in the annual  
33 report to assist the department in providing technical assistance  
34 and reviewing the jurisdiction's diversion program implementation.

35 (f) The department shall adopt procedures for conferring with  
36 a jurisdiction regarding the implementation of its diversion  
37 programs.

38 (g) Notwithstanding the Uniform Electronic Transactions Act  
39 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division  
40 3 of the Civil Code), a jurisdiction shall submit the progress report



1 required by this section to the department electronically, using the  
2 department's electronic reporting format system.

3 ~~(h) Notwithstanding the reporting schedule required by this~~  
4 ~~section, and in addition to the review required by Section 41825,~~  
5 ~~the board shall visit each jurisdiction not less than once each year~~  
6 ~~to monitor the jurisdiction's implementation and maintenance of~~  
7 ~~its diversion programs.~~

8 SEC. 4. ~~No reimbursement is required by this act pursuant to~~  
9 ~~Section 6 of Article XIII B of the California Constitution because~~  
10 ~~a local agency or school district has the authority to levy service~~  
11 ~~charges, fees, or assessments sufficient to pay for the program or~~  
12 ~~level of service mandated by this act, within the meaning of Section~~  
13 ~~17556 of the Government Code.~~